

REMARKS

Applicants have carefully reviewed the Application in light of the Office Action transmitted March 21, 2008 ("*Office Action*"). Claims 1-34 are pending in the Application. The Examiner allows Claims 1-8, 17-24, 33 and 34 and rejects Claims 9-16 and 25-32. Applicants amend Claims 25-32. Applicants submit that all claims are in condition for allowance and respectfully request reconsideration and favorable action in this case.

Allowable Subject Matter

Applicants appreciate the Examiner's consideration of and allowance of Claims 1-8, 17-24, 33 and 34.

Rejections under 35 U.S.C. § 101

The Examiner rejects Claims 9-16 and 25-32 under 35 U.S.C. § 101 as directed to non-statutory subject matter. According to the *Office Action*, Claims 9-16 and 25-32 are drawn to functional descriptive material rather than being claimed as residing on a computer readable medium.

Claims 9-16

Applicants respectfully submit that Claims 9-16 are directed to an "optical communication system" that requires physical structures such as "optical communication nodes" and "optical transmission media." As such, Claims 9-16 are directed to statutory subject matter. Applicants thus respectfully request reconsideration of and withdrawal of the Section 101 rejection to Claims 9-16.

Claims 25-32

Applicants respectfully traverse the Section 101 rejection to Claims 25-32 and submit that these claims, as originally filed, recite statutory subject matter. To hasten issuance of currently allowable subject matter, however, Applicants amend Claims 25-32 in accordance with the Examiner's suggestions. Applicants therefore respectfully submit that all claims are in condition for allowance in accordance with the Examiner's indications.

CONCLUSION

Applicants have made an earnest attempt to place this case in condition for allowance. For the foregoing reasons and for all other reasons clear and apparent, Applicants respectfully request reconsideration and allowance of this Application.

If the Examiner feels prosecution of the present Application may be advanced by a telephone conference, Applicants invite the Examiner to contact the undersigned attorney at (214) 953-6584.

Although no fees are believed to be due, the Commissioner is hereby authorized to charge any fees or credit any overpayments to Deposit Account No. 02-0384 of Baker Botts L.L.P.

Respectfully submitted,

BAKER BOTTS L.L.P.
Attorneys for Applicants

A handwritten signature in black ink, appearing to read 'Kurt M. Pankratz', with a stylized flourish at the end.

Kurt M. Pankratz
Reg. No. 46,977

Date: June 23, 2008

Customer No. **05073**